

Members

Sen. Potch Wheeler, Chairperson
Sen. Becky Skillman
Sen. Richard Young
Sen. James Lewis
Rep. Markt Lytle
Rep. James Bottorff
Rep. Richard Mangus
Rep. Phyllis Pond



NATURAL RESOURCES STUDY COMMITTEE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Steven R. Wenning, Attorney for the Committee
Valerie Ruda, Fiscal Analyst for the Committee

Authority: IC 2-5-5-1

MEETING MINUTES¹

Meeting Date: September 17 & 18, 2002
Meeting Time: 1:00 P.M. (EST)
Meeting Place: Forest Discovery Center,
Conference Room (9/17)
Holiday Inn Lakeview,
Byron Conference Room (9/18)
Meeting City: Starlight, Indiana (9/17)
Clarksville, Indiana (9/18)
Meeting Number: 2

Members Present: Sen. Potch Wheeler, Chairperson; Sen. Becky Skillman; Sen. James Lewis; Sen. Richard Young (9/18); Rep. Markt Lytle; Rep. James Bottorff; Rep. Richard Mangus; Rep. Phyllis Pond.

Members Absent: Sen. Richard Young (9/17).

Senator Wheeler (Chairperson) called the meeting to order at 1:20 P.M. Members of the Natural Resources Study Committee (Committee) were introduced. The Chairperson began the meeting by calling witnesses concerning SEA 508-2002 and the regulation of dams.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Topic: Regulation of Dams

Kevin Strunk, President, Professional Geologists of Indiana

Mr. Strunk distributed a copy of his comments and proposed legislative language (Exhibit A) to the Committee. His comments included the following information:

- Geologists are skilled at assessing, understanding, and correcting problems related to man-made and natural surface and subsurface conditions.
- Prior to SEA 508-2002, dam inspections were conducted by the Department of Natural Resources (DNR) using an approach that included geologists and civil engineers.
- In the Indiana House of Representatives, geologists were placed in SEA-508, but they were removed in conference committee.
- Federal agencies frequently use geologists as lead investigators in dam projects.
- Increasing the number of professions that would be allowed to conduct dam inspections would probably lower the cost to the dam owners.

Mike Neyer, Director, Division of Water, DNR

Mr. Neyer explained that SEA 508-2002 established inspection requirements for dams in Indiana. The final version of SEA 508-2002 contained provisions concerning geologists that the legislators thought they had deleted in the conference committee report. The law would still require licensed engineers to make certain dam inspections. Mr. Neyer distributed the corrections he would like made to the dam inspection law. (Exhibit B) The changes included removing the references to geologists and repealing the requirement for a dam owner to prepare an emergency action plan.

Doug Cregor, Attorney, Association of Indiana Conservancy Districts (AICD)

The AICD represents 51 of the 80 active conservancy districts in the state. Nineteen of these districts contain 36 high hazard dams. Mr. Cregor stated the dam inspection legislation passed very quickly and contains problems for conservancy districts with dams. He would like implementation of the bill delayed until the following problems are addressed:

- Determine the financial impact to conservancy districts for the required private inspections. Inspection costs for the districts could exceed \$500,000.
- Give the conservancy districts adequate time to raise the funds needed. Many of the 2003 budgets are already set.
- Have the Division of Water provide more guidance (e.g. what qualifications should an engineer have to make an inspection; what should be done in a technical inspection; does passing an inspection mean the dam is certified as being safe for the next two years; etc.)

In response to Committee questions, Mr. Cregor stated the following:

- In the past DNR notified conservancy districts of legislation that would

affect them. On this bill DNR did not forward the information.

- Conservancy districts do have a maintenance fund, but the amount in these funds is not enough to meet the new costs.

Mike Neyer responded to a Committee question by stating that all owners of high hazard dams were notified that they have at least 18 months to complete the inspections of their dams.

Glenna Shelby, Consulting Engineers of Indiana

Ms. Shelby supported the corrections to the dam inspection law proposed by the Division of Water. She stated that differences between the profession of geology and engineering can be seen when examining their statutory scope of practices. Geologists work with geological materials and processes and the engineering professions scope of work includes evaluation of structures.

The Committee voted 6-0 to prepare legislation to make the changes outlined by the Division of Water. The Committee asked the Division to find ways to make sure the inspection costs to dam owners are not too expensive.

Topic: Department Of Natural Resources Legislative Proposals

John Goss, Director, Department of Natural Resources

John Davis, Deputy Director, Department of Natural Resources

Mr. Goss and Mr. Davis presented DNR's legislative proposals to the Committee. Directors from the various divisions of DNR were present to provide information to the Committee. Mr. Goss explained the rationale for the proposals and the efforts to receive comments from interested parties on each recommendation. Documents were distributed concerning the proposed legislative measures. (Exhibits C, D, & E)

Rep. Bottorff noted that receiving comments from various associations does not mean that the members of the association are informed or agree with a proposal.

Bruce Stevens, Director, Division of Reclamation, DNR

Mr. Stevens explained that in 1991 the Division of Reclamation was funded through fees. In 1995, the fees were reduced and half the Division's money came from the Indiana General Fund. In recent years the amount received from the General Fund has been reduced but the fee level was increased to the 1991 levels. However, the fee increase is temporary and is set in statute to go back down to 1995 levels on June 30, 2003. The Division would like the fees to stay at their current level.

In response to questions by the Committee, Mr. Stevens stated the following:

- The Indiana Coal Council supported the temporary fee increase.
- The federal government collects an abandoned mines fee. The money is used to assure compliance with mining laws. The program sunsets in 2024.
- Over the last several years the Division's staff has been reduced from 105 employees to 74. The coal mining industry has generally been compliant; so far

there have not been any negative effects from the staff reduction.

- About 30 million tons of coal combustion waste is placed back in state coal mines each year.
- Water quality must be monitored for 8-10 years after coal mining operations cease. Money from a coal combustion waste haul-back fee would allow long-term monitoring.

Nat Noland, Indiana Coal Council

Mr. Noland stated that although the coal industry went along with the Division's temporary fee increase, they oppose making the increase permanent. The coal industry would like the Division of Reclamation to be funded through appropriations because funding through the General Assembly creates legislative oversight. The federal Environmental Protection Agency (EPA) may be issuing guidelines concerning coal combustion waste. The coal industry does not want higher fees that may decrease the sale of Indiana coal.

Dwayne Burke, Indianapolis Power and Light

Mr. Burke stated that Indianapolis Power and Light hauls 900,000 tons of coal combustion waste back to coal mines each year. In the spring of 2003 the federal Environmental Protection Agency (EPA) will be examining issues concerning coal combustion waste and they do not want a fee on this waste until the industry knows what actions the EPA may take.

The Committee voted 7-0 not to take any action concerning reclamation fees and coal combustion waste haul-back fees.

Glen Salmon, Director, Division of Fish and Wildlife, DNR

Mr. Salmon presented information on the proposed increase in various fish and wildlife fees, (Exhibit F) including the following:

- Because of an agreement with Kentucky, Indiana must raise its Ohio River commercial fishing fees to meet the amount of the Kentucky fee.
- Bait dealer license fees of \$10 per year have not been increased since 1970.
- The charter fishing boat operator's license fee of \$100 per year has not been increased since 1987.
- A field trial permit is issued to a club for each sanctioned field trial on public or private property. The \$10 fee has not been changed since 1981.

The Committee decided to table the fish and wildlife fee increase issue.

During the Committee's discussion with John Goss, the following information and suggestions were presented:

- Various interest groups need to explain to their members the benefits that will be received through increased fees.
- DNR wants more dedicated funds so that the groups that pay the fees receive the benefits from those fees.
- DNR would like some of its programs to raise enough revenue to be independent

from appropriations.

- DNR needs to place more publications on the Internet.

Topic: Conservancy District Cumulative Maintenance Funds.

Doug Cregor, Attorney, Association of Indiana Conservancy Districts (AICD)

Spencer Schnaitter, Attorney, Association of Indiana Conservancy Districts (AICD)

Mr. Cregor and Mr. Schnaitter presented to the Committee a proposal to legislatively allow conservancy districts' cumulative maintenance fund levels to be increased. (Exhibit G) Collections by many conservancy districts with dams are limited to the cost of maintenance. Many of these costs of maintenance are 30-40 years old and do not reflect the actual cost now required to inspect and maintain dams.

The Committee agreed to review proposed legislation on the conservancy district cumulative maintenance funds at the October meeting.

Topic: Classified Forests

Burnell Fisher, State Forester/Director, Division of Forestry, DNR

Mr. Fisher outlined a proposal to merge the classified forest program, classified windbreak program, classified wildlife habitat program, and the riparian lands program. (Exhibit H) The classified forest program has existed since 1921 and has about 8,700 landowner participants. Merger of the programs would have the following benefits:

- End confusion over landowners who split adjacent lands between different programs.
- Make administration of the programs efficient for DNR and county officials (i.e. assessors and auditors).

John Seifert, President, Indiana Woodland Owners Association

Mr. Seifert stated that the Indiana Woodland Owners Association supports the classified forest program and would like to work with the Division of Forestry on any proposed improvements.

Ray Moistner, Indiana Hardwood Lumbermen's Association

Randy Koetter, President, Koetter Woodworking

Mr. Moistner and Mr. Koetter explained the history of Koetter Woodworking and the development of the Forest Discovery Center. A tour of the Forest Discovery Center was made available for all participants at the meeting.

The Chairman recessed the meeting at 4:25 p.m. (EST) until 9:00 a.m. (EST) at the Holiday Inn Lakeview, Clarksville, Indiana.

September 18, 2002. The Chairman called the meeting to order at 9:10 a.m.

Topic: Field Trials

Dick Mercier, Indiana Sportsmen's Roundtable

Mr. Mercier explained that Indiana's first field trial began November 15, 1880, east of Vincennes, and continued on a regular basis until 2002. The U.S. Fish and Wildlife Service indicated that certain federal funds might be withheld if field trials were allowed on public lands. However, they were willing to grant a waiver if applied for by DNR. The previous Deputy Director stated that a waiver would be applied for but it was not. Now it is not clear if the U.S. Fish and Wildlife Service will grant a waiver and there is not a suitable place to conduct field trials in Indiana.

John Davis, Deputy Director, DNR

Mr. Davis stated that the U.S. Fish and Wildlife Service had conducted an extensive audit of state properties in which the U.S. Fish and Wildlife Service has an interest. The audit covered many topics (e.g. accounting, payroll, land management, etc.) and DNR was in a mode to correct everything noted in the audit. The U.S. Fish and Wildlife Service did not want field trials conducted at the state parks. Ohio has received a waiver to allow field trials and Illinois has moved their field trials to other lands. Large tracts of land are required to conduct a field trial (e.g. horse field trials require 2,000-3,000 acres). DNR is investigating the use of reservoir properties or private coal mining property to conduct future field trials. (Exhibit I)

The Committee recommended by a vote of 7-0 that DNR continue to work to find suitable land for field trials and that DNR vigorously apply to the U.S. Fish and Wildlife Service for the appropriate waiver necessary to allow the field trials to continue on public lands.

The Committee agreed to draft legislation for the following proposals by a roll call vote:

Yes- No

6	- 1	Off-road vehicle accident reporting and registration fees and stickers.
6	- 1	Entomology and nursery fees.
6	- 1	Lake preservation act; flood control act; and dam inspection fees.
6	- 1	Ginseng dealer fees.
6	- 0	Licensed timber buyer and agent fees.
7	- 0	Point-of-sale hunting, trapping, and fishing licenses.
5	- 0	Parks and reservoirs accounts
5	- 0	Historic preservation reference
7	- 0	Law enforcement issues
7	- 0	Lakes preservation act
7	- 0	Combine classified land programs

The Committee held the following proposals for consideration at the October meeting:

Sale of water
Oil and gas fees
Historic site fees

A tour of the Falls of the Ohio State Park was made available to all Committee members and participants after the meeting.

The meeting was adjourned at 11:05 a.m. (EST).